

AMENDED IN SENATE APRIL 27, 2015

SENATE BILL

No. 303

Introduced by Senator Hueso

February 23, 2015

An act to amend Section 11479 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as amended, Hueso. Controlled substances: destruction of seized marijuana.

Existing law, the *California* Uniform Controlled Substances Act, includes provisions authorizing the forfeiture and seizure of property involved in, or purchased with the proceeds from, a controlled substance offense. Existing law authorizes the destruction of seized substances suspected to be controlled substances in excess of 10 pounds in gross weight, subject to specified requirements. Under existing law, prior to destruction of a suspected controlled substance, the law enforcement agency is required to take at least 5 random and representative samples, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed, in addition to the 10 pounds the law enforcement agency is required to retain.

This bill would authorize the law enforcement agency to destroy seized substances suspected to be growing or harvested marijuana in excess of 2 pounds, *or the amount of marijuana a medical marijuana patient or designated caregiver is authorized to possess by ordinance in the city or county where the marijuana was seized, whichever is greater*, subject to specified requirements. The bill would also require the law enforcement agency to retain at least one 2-pound sample and

5 random and representative samples consisting of leaves or buds, for evidentiary purposes, from the total amount to be destroyed.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11479 of the Health and Safety Code is
2 amended to read:

3 11479. Notwithstanding Sections 11473 and 11473.5, at any
4 time after seizure by a law enforcement agency of a suspected
5 controlled substance, *except in the case of growing or harvested*
6 *marijuana*, that amount in excess of 10 pounds in gross ~~weight,~~
7 ~~and in the case of growing or harvesting marijuana, only that~~
8 ~~amount in excess of 2 pounds,~~ weight may be destroyed without
9 a court order by the chief of the law enforcement agency or a
10 designated subordinate. *In the case of growing or harvested*
11 *marijuana, that amount in excess of 2 pounds, or the amount of*
12 *marijuana a medical marijuana patient or designated caregiver*
13 *is authorized to possess by ordinance in the city or county where*
14 *the marijuana was seized, whichever is greater, may be destroyed*
15 *without a court order by the chief of the law enforcement agency*
16 *or a designated subordinate.* Destruction shall not take place
17 pursuant to this section until all of the following requirements are
18 satisfied:

19 (a) At least five random and representative samples have been
20 taken, for evidentiary purposes, from the total amount of suspected
21 controlled substances to be destroyed. These samples shall be in
22 addition to the 10 pounds required above. When the suspected
23 controlled substance consists of growing or harvested marijuana
24 plants, at least one 2-pound sample ~~(which may include stalks,~~
25 ~~branches, or leaves)~~ and five representative samples consisting of
26 ~~leaves or buds shall be retained for evidentiary purposes from the~~
27 ~~total amount of suspected controlled substances to be destroyed.~~
28 *or a sample in the amount of medical marijuana a medical*
29 *marijuana patient or designated caregiver is authorized to possess*
30 *by ordinance in the city or county where the marijuana was seized,*
31 *whichever is greater, shall be retained. This sample may include*
32 *stalks, branches, or leaves. In addition, five representative samples*

1 *of leaves or buds shall be retained for evidentiary purposes from*
2 *the total amount of suspected controlled substances to be destroyed.*

3 (b) Photographs have been taken which reasonably demonstrate
4 the total amount of the suspected controlled substance to be
5 destroyed.

6 (c) The gross weight of the suspected controlled substance has
7 been determined, either by actually weighing the suspected
8 controlled substance or by estimating that weight after dimensional
9 measurement of the total suspected controlled substance.

10 (d) The chief of the law enforcement agency has determined
11 that it is not reasonably possible to preserve the suspected
12 controlled substance in place, or to remove the suspected controlled
13 substance to another location. In making this determination, the
14 difficulty of transporting and storing the suspected controlled
15 substance to another site and the storage facilities may be taken
16 into consideration.

17 Subsequent to any destruction of a suspected controlled substance
18 pursuant to this section, an affidavit shall be filed within 30 days
19 in the court which has jurisdiction over any pending criminal
20 proceedings pertaining to that suspected controlled substance,
21 reciting the applicable information required by subdivisions (a),
22 (b), (c), and (d) together with information establishing the location
23 of the suspected controlled substance, and specifying the date and
24 time of the destruction. In the event that there are no criminal
25 proceedings pending which pertain to that suspected controlled
26 substance, the affidavit may be filed in any court within the county
27 which would have jurisdiction over a person against whom those
28 criminal charges might be filed.

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